

**CALENDAR ITEM
C10**

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04/20/17

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PRC 8983.1

K. Connor

**ACCEPTANCE OF A QUITCLAIM DEED AND
ISSUANCE OF A GENERAL LEASE – RECREATIONAL USE**

LESSEE:

James H. Thompson, Jr., Susan Thompson Diedrichsen, Alison C. McKee, Janet Thompson Henningsen, and Carol Thompson Ceelen

APPLICANT:

Robert D. May and Judith T. May, Trustees of the May Family Trust as Amended and Updated in 2013

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 8441 Meeks Bay Avenue (Assessor's Parcel Numbers 016-091-50 and 016-091-51), near Rubicon Bay, El Dorado County

AUTHORIZED USE:

Continued use and maintenance of three existing mooring buoys.

LEASE TERM:

10 years beginning August 23, 2016.

CONSIDERATION:

\$1,131 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

1. Liability insurance in an amount no less than \$1,000,000 per occurrence.
2. Lessee shall not store any personal items or construct any improvements in the Public Trust easement that may impair public access and uses.

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3. If Lessee does not have valid Tahoe Regional Planning Agency (TRPA) buoy permits, Lessee is required to obtain such authorization for the mooring buoys within two years after the adoption of a Final Environmental Impact Statement (FEIS) for the Lake Tahoe Shorezone Ordinance Amendments and approval of the amended ordinances. If Lessee is unable to obtain such authorization within the time limit, they may be required to remove the buoys.
4. Lessee expressly acknowledges and agrees that issuance of a lease does not substitute for, or provide preference in, obtaining authorizations from TRPA or any other regulatory agency for the improvements authorized by the Commission.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6501.1, and 6503.5; California Code of Regulations, title 2, section 2000, subdivision (b).

Public Trust and State's Best Interests Analysis:

On March 29, 2012, the Commission authorized a General Lease – Recreational Use for three existing mooring buoys to James H. Thompson, Jr., Susan Thompson Diedrichsen, Alison C. McKee, Janet Thompson Henningsen, and Carol Thompson Ceelen ([Calendar Item C53, March 29, 2012](#)). That lease expires on March 28, 2022. The Lessee has submitted a quitclaim of the lease premises effective August 22, 2016. On August 23, 2016, ownership of the upland parcels was deeded to Robert D. May and Judith T. May, Trustees of the May Family Trust as Amended and Updated in 2013. The Applicant is now applying for a General Lease – Recreational Use for the continued use and maintenance of two existing mooring buoys adjacent to Assessor's Parcel Number (APN) 016-091-50 and one buoy adjacent to APN 016-091-51. The Applicant owns these two contiguous lakefront parcels adjoining the lease premises.

The three buoys are for the mooring of boats. Recreational boating is a water-dependent use that is generally consistent with the common law Public Trust Doctrine. The California Legislature has identified private recreational boating facilities as an authorized use of Public Trust land (Pub. Resources Code, § 6503.5).

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The three buoys have existed for many years at this location. The subject facilities do not significantly alter the land and the lease does not alienate the State's fee simple interest or permanently impair public rights. Upon termination of the lease, the lessee may be required to remove all improvements and restore the lease premises to their original condition. Additionally, the three buoys occupy a relatively small area of the lake. Based on the foregoing, Commission staff believes that the three mooring buoys will not substantially interfere with Public Trust needs at this location, at this time, or for the foreseeable term of the proposed lease.

The three buoys are privately owned and maintained. There is also a pier extending from the upland past the approximate shoreline, as shown on Exhibit B; however, the pier does not extend below the low water line and therefore is not within the Commission's leasing jurisdiction. Consequently, a lease for the pier is not required at this time.

The proposed lease requires the lessee to insure the lease premises and indemnify the State for any liability incurred as a result of the lessee's activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved. For all the reasons above, Commission staff believes the issuance of this lease is consistent with the common law Public Trust Doctrine and in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction.
2. Acceptance of the quitclaim deed is not a project as defined by the California Environmental Quality Act (CEQA) because it is an administrative action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378, subdivision (b)(5).

3. Staff recommends that the Commission find that issuance of the lease is exempt from the requirements of CEQA as a categorically exempt project.

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The project is exempt under Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, section 2905.

4. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon staff's consultation with the persons nominating such lands and through the CEQA review process, it is staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBITS:

- A. Land Description
- B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that issuance of the lease is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not substantially impair the public rights to navigation and fishing or substantially interfere with Public Trust needs and values at this location, at this time, or for the foreseeable term of the lease, and is consistent with the common law Public Trust Doctrine, and is in the best interests of the State.

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

CALENDAR ITEM NO. **C10** (CONT'D)

AUTHORIZATION:

1. Authorize acceptance of a quitclaim deed, effective August 22, 2016, of Lease No. PRC 8983.1, a General Lease – Recreational Use, issued to James H. Thompson, Jr., Susan Thompson Diedrichsen, Alison C. McKee, Janet Thompson Henningsen, and Carol Thompson Ceelen.
2. Authorize issuance of a General Lease – Recreational Use to Robert D. May and Judith T. May, Trustees of the May Family Trust as Amended and Updated in 2013, beginning August 23, 2016, for a term of 10 years, for the continued use and maintenance of three existing mooring buoys as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$1,131, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 8983.1

LAND DESCRIPTION

Three parcels of submerged lands situate in the bed of Lake Tahoe, lying adjacent to fractional Section 29, Township 14 North, Range 17 East, M.D.B.&M., as shown on Official Government Township Plat approved July 29, 1880, County of El Dorado, State of California, more particularly described as follows:

Three circular parcels of land, each being 50 feet in diameter, underlying two existing buoys lying adjacent to parcel's one and two as described in Grant Deed recorded Jun 16, 2011 as Document Number 2011-0027763 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 1/9/2012 by the California State Lands Commission Boundary Unit.



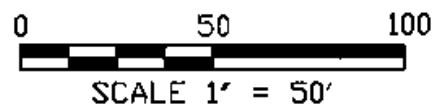
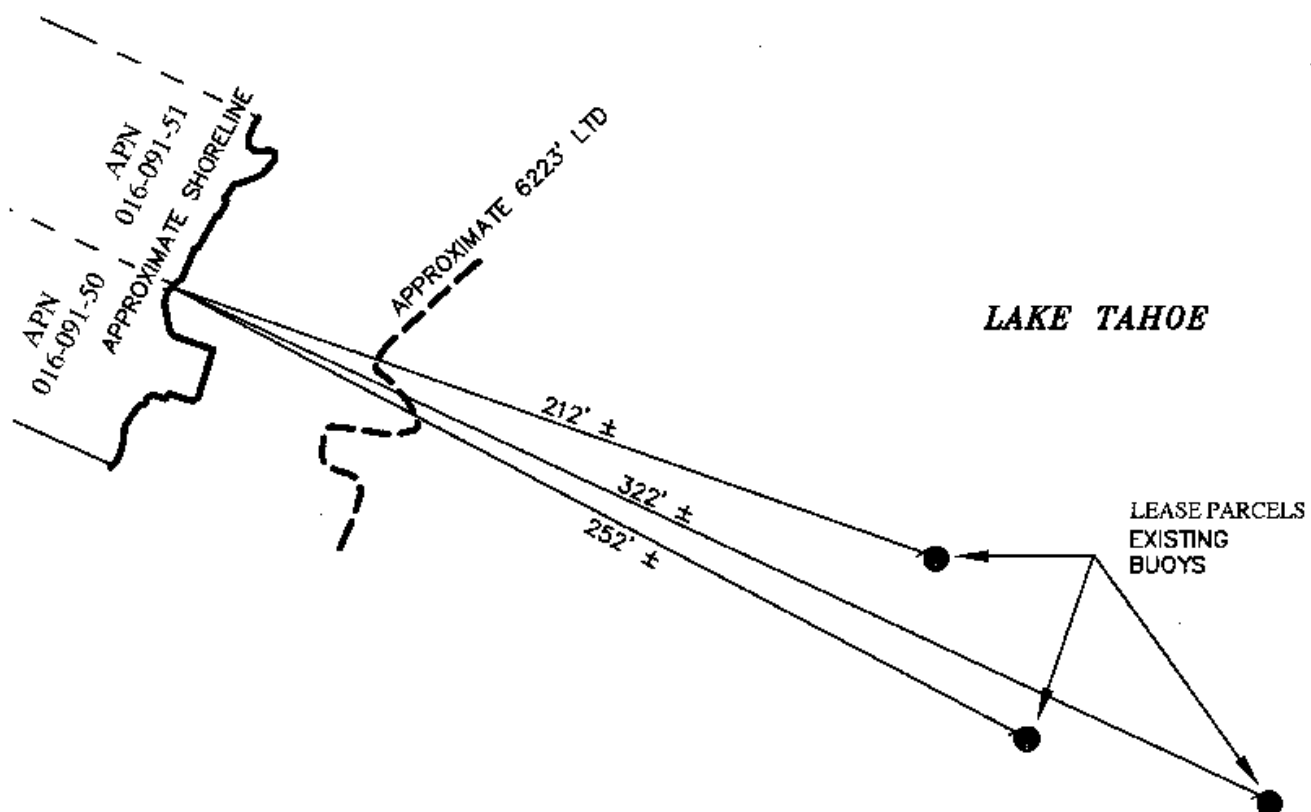


EXHIBIT A

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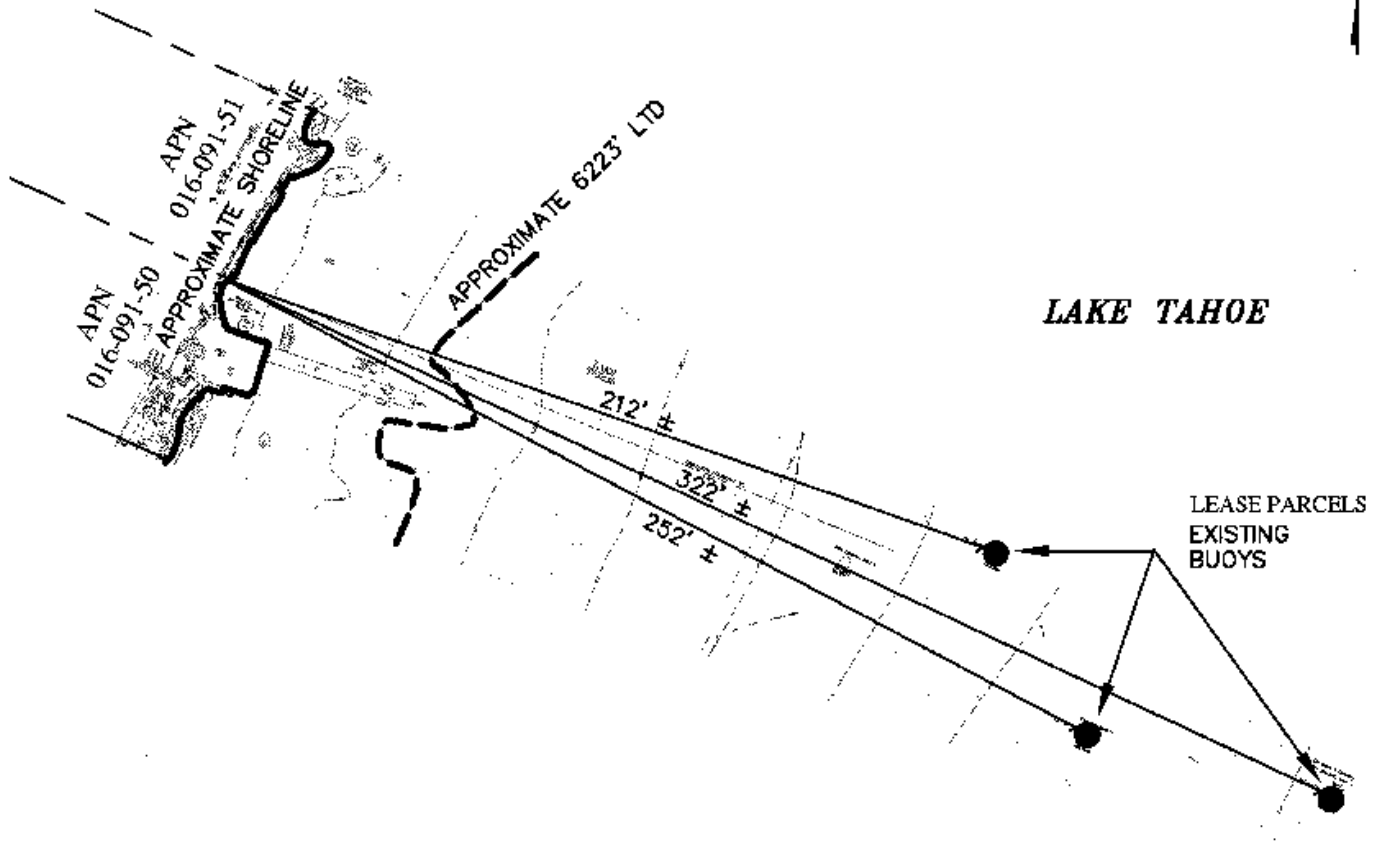
LAND DESCRIPTION PLAT
PRC 8983.1, MAY FAMILY TRUST
EL DORADO COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE



8441 MEEKS BAY AVE., RUBICON BAY

NO SCALE

LOCATION

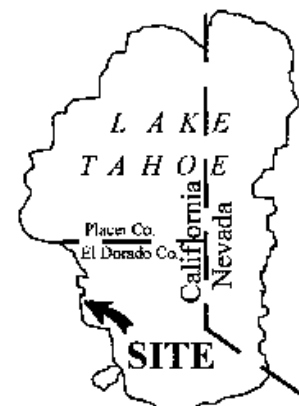


MAP SOURCE: USGS QUAD

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

Exhibit B

PRC 8983.1
MAY FAMILY TRUST
APN 016-091-50 & 016-091-51
GENERAL LEASE -
RECREATIONAL USE
EL DORADO COUNTY



DJF 02/14/2017